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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 9th August, 1975:—

BILL No. XVIII OF 1975

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Forty-first Amendment) Act, 1975. Short title.

2. In article 361 of the Constitution,— Amendment of article 361.

(a) in clause (1), for the words "The President, or the Governor", the words "The President, or the Prime Minister, or the Governor" shall be substituted and shall be deemed always to have been substituted;

(b) for clauses (2), (3) and (4), the following clauses shall be substituted, and shall be deemed always to have been substituted, namely:—

"(2) No criminal proceedings whatsoever, against or concerning a person who is or has been the President or the Prime Minister or the Governor of a State, shall lie in any court, or shall be instituted or continued in any court, in respect of any act done by him, whether before he entered upon his office or during his term of office as President or Prime Minister or Governor of a State, as the case may be, and no process whatsoever including process for arrest or imprisonment shall issue from any court against such person in respect of any such act.

(3) No civil proceedings against the President, or the Prime Minister, or the Governor of a State, shall be instituted or continued during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Prime Minister, or as Governor of such State:

Provided that the period for which such civil proceedings could not be instituted shall be excluded for the purposes of any law for the time being in force relating to limitation.".

STATEMENT OF OBJECTS AND REASONS

Under clause (1) of article 361 of the Constitution, the President or the Governor is not answerable to any court for the exercise and performance of the powers and duties of his office and for acts done or purporting to be done by him in the exercise and performance of those powers and duties. Under our democratic and republican form of Government, the Prime Minister holds an equally high position and it is considered essential that the protection under the clause should also be extended to the Prime Minister

2. Clauses (2) and (3) of article 361 of the Constitution provide for personal immunity of the President and Governors from criminal proceedings and from process of arrest or imprisonment. This immunity is available to the President or a Governor in respect of acts done by him before he entered upon his office and also in respect of acts done by him during the term of his office. It is considered that the immunity in respect of such acts should be available to him after he demits office also and that the Prime Minister should also have the same immunity.

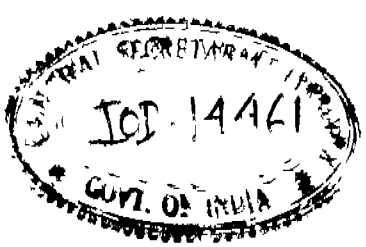
3. As regards civil proceedings in respect of personal acts of the President or the Governor, clause (4) of article 361 provides for a limited protection in the shape of a requirement of notice for a period of two months prior to the institution of such proceedings. It is considered that the President, Prime Minister or Governor of a State should have immunity from civil proceedings during the term of his office.

4. The Bill seeks to amend article 361 of the Constitution to achieve the above objects.

NEW DELHI;
The 8th August, 1975

H. R. GOKHALE.

B N. BANERJEE,
Secretary-General.



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